

10/626,710  
DOCKET NO.001US1

5

### REMARKS

Claims 14-21 and 21-28 are all the claims presently pending in the application.

Claims 23, 26 and 28 have been merely editorially amended and have not been substantively amended to more particularly define the invention.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and not for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicants specifically state that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claims.

Claims 14 and 27 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 14, 23, 24, 26 and 27 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 14-17 and 21-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Quantrille et al. (U.S. Patent No. 5,431,991; hereinafter "Quantrille"). Claims 14-17, 21-15 and 27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Cohen et al. (U.S. Patent No. 5,736,473; hereinafter "Cohen"). Claims 14-17, 21-25 and 27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Evans et al. (U.S. Patent No. 3,494,821; hereinafter "Evans"). Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Quantrille in view of Meitner et al. (U.S. Patent No. 4,426,417) (hereinafter "Meitner"). Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Cohen in view of Meitner. Claim 28 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans in view of Meitner.

This rejection is respectfully traversed in the following discussion.

10/626,710  
DOCKET NO.001US1

6

## **I. THE CLAIMED INVENTION**

The claimed invention of exemplary claim 1 provides a woven/non-woven fabric including fibers having a substantially uniform length (see Application at page 9, lines 19-21). This combination of features provides a fabric that is reusable, tear-resistant when dry or soaked, very high in absorption capacity, ecological and biodegradable (see Application at page 2, lines 10-12).

## **II. THE 35 U.S.C. §112, FIRST PARAGRAPH, REJECTION**

Claims 14 and 27 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner alleges that the limitation of "substantially uniform length" has not been provided for in the previous set of claims or the specification. Applicants respectfully disagree.

That is, this feature of the claimed invention of claims 14 and 27 is clearly set forth in the original specification. Indeed, the specification clearly states that "if there is a significant difference in the length of the fibers, then the fibers will be laid on the belt in an irregular way. Such irregularity of the fibers would produce an uneven web" (see Application at page 9, lines 19-21).

Applicants point out that there is no requirement in the M.P.E.P. that the language recited in a claim must be identical to that used to describe the claimed feature in the specification. That is, the M.P.E.P. clearly sets forth that "[t]o satisfy the written description requirement, a patent specification must describe the invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention" (see M.P.E.P. § 2163).

10/626,710  
DOCKET NO.001US1

7

Applicants submit that one of ordinary skill in the art would reasonably conclude that the inventors were in possession of the claimed invention, including the limitation of "substantially uniform length" in view of the above disclosure provided in the original specification.

Furthermore, the burden is on the examiner with regard to the written description requirement. That is, a written description as filed is presumed to be adequate. The Examiner has the initial burden of rebutting this presumption by providing evidence or reasoning to the contrary. The Examiner must set forth express findings of facts to support a lack of written description rejection, including providing reasons why a person of ordinary skill in the art would not have recognized that the inventor was in possession of the claimed invention (see M.P.E.P. § 2163). Applicants respectfully submit that the Examiner has not met this initial burden.

Thus, if the Examiner wishes to maintain this rejection, Applicants respectfully request the Examiner to provide explicit reasoning and evidence to support the rejection.

Therefore, the Examiner is respectfully requested to reconsider and withdraw this rejection.

### **III. THE 35 U.S.C. §112, SECOND PARAGRAPH, REJECTION**

Claims 14, 23, 24, 26 and 27 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Regarding claims 23 and 26 Applicants have amended the claims in accordance with the Examiner's rejections. Specifically, regarding claim 23, the term "micronaire" has been replaced with the phrase "micrograms per inch of fiber length" as suggested by the Examiner.

10/626,710  
DOCKET NO.001US1

8

Claim 26 has been amended to recite “wherein said fibers are bound in a horizontal direction planar to a plane of the web and a transversal direction perpendicular to the plane of the web”.

However, regarding claims 14, 24 and 27, Applicants respectfully submit that the use of the relative terms “substantially” and “high” are not indefinite as alleged by the Examiner. Applicants point out that the M.P.E.P. clearly states that “[t]he fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph” (emphasis added by Applicants) (see M.P.E.P. §2173.05(b)). “Acceptability of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification” (emphasis added by Applicants) (see M.P.E.P. §2173.05(b)). That is, “[w]hen a term of degree is presented in a claim, first a determination is to be made as to whether the specification provides some standard for measuring that degree” (see M.P.E.P. §2173.05(b)).

The Examiner alleges that the term “substantially” (and similarly “high”) “is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention” (see Office Action dated August 3, 2005 at page 3). Applicants, however, respectfully disagree with the Examiner.

That is, the specification of the Application clearly provides the required “standard for ascertaining requisite degree” for the term “substantial” at page 9, lines 16-21. Similarly, the specification of the Application provides the required “standard for ascertaining requisite degree” for the term “high” at page 6, lines 14-25. Indeed, the specification defines “high” absorption capacity as 15-16 times heavier than the fabric itself.

10/626,710  
DOCKET NO.001US1

9

Thus, Applicants respectfully submit that one of ordinary skill in the art would be reasonably apprised of the scope of the invention based on the standard for measuring the degree of the terms "substantially" and "high" that are clearly provided in the original specification.

Therefore, in view of the above amendments and arguments, the Examiner is respectfully requested to reconsider and withdraw these rejections.

#### IV. THE PRIOR ART REJECTIONS

##### A. The Quantrille Reference

The Examiner alleges that Quantrille teaches the claimed invention of claims 14-17 and 21-27. Applicants submit, however, that there are features of the claimed invention, which are neither taught nor suggested by Quantrille.

That is, Quantrille does not teach or suggest "*wherein said plurality of waste threads comprises fibers having a substantially uniform length*" as recited by exemplary claim 14.

The Examiner attempts to rely on column 3, lines 30-37 and column 5, lines 16-20 of Quantrille to support his allegations. The Examiner, however, is clearly incorrect.

That is, nowhere in these passages (nor anywhere else for that matter) does Quantrille teach or suggest a woven/non-woven fabric including a plurality of waste fibers wherein the plurality of waste fibers include fibers having a substantially uniform length. Indeed, the Examiner does not even suggest that Quantrille teaches or suggests this feature. Quantrille does not even mention the length of the waste fibers, let alone teach or suggest that the waste fibers include a uniform length.

Quantrille merely discloses an elastic fabric made by a net combined with a fibrous

10/626,710  
DOCKET NO.001US1

10

layer including 20 wt% thermoplastic elastomer stressed at a temperature of up to 70°C. In contrast, the claimed invention may dry at a temperature of approximately 160°C and may include 100% pure cotton. Therefore, Quantrille claims a different product and a different process than the claimed invention.

Moreover, nowhere does Quantrille teach or suggest a woven/non-woven fabric *“wherein said plurality of waste threads comprises fibers in a range of length between about 8 mm to about 18 mm”*, as recited in exemplary dependent claim 15 and newly added exemplary dependent claim 18.

In the Examiners' Response to Arguments the Examiner states that “the teaching of “staple” fiber necessitates a substantial uniform length as the length of staple cotton fibers is well known and as a specified value” (see Office Action at pages 8-9). The Examiner, however, does not provide any support for this allegation.

Therefore, if the Examiner wishes to maintain this rejection, Applicants respectfully request the Examiner to provide a prior art reference that specifically teaches each and every feature of the claimed invention and that supports the Examiner's allegation that “the length of staple cotton fibers is well known and as a specified value”.

Therefore, Applicants submit that there are features of the claimed invention that are neither taught nor suggested by the claimed invention. Therefore, the Examiner is respectfully requested to reconsider and withdraw this rejection.

#### **B. The Cohen Reference**

The Examiner alleges that Cohen teaches the claimed invention of claims 14-17, 21-

10/626,710  
DOCKET NO.001US1

11

25 and 27. Applicants submit, however, that there are features of the claimed invention, which are neither taught nor suggested by Cohen.

That is, Cohen does not teach or suggest "*wherein said plurality of waste threads comprises fibers having a substantially uniform length*" as recited by exemplary claim 14.

The Examiner attempts to rely on column 6, lines 5-10 and column 9, lines 25-32 of Cohen to support his allegations. The Examiner, however, is clearly incorrect.

That is, nowhere in these passages (nor anywhere else for that matter) does Cohen teach or suggest a woven/non-woven fabric including a plurality of waste fibers wherein the plurality of waste fibers include fibers having a substantially uniform length. Indeed, the Examiner does not even suggest that Cohen teaches or suggests this feature. Cohen does not even mention the length of the waste fibers, let alone teach or suggest that the waste fibers include a uniform length.

Cohen merely discloses a fibrous composite structure including a matrix of fibrous material that can include one or more secondary materials among woven fabric, knit fabric and non-woven fabric. In contrast, the claimed invention may include 100% pure cotton. Furthermore, the non-woven fabric of Cohen can include different products such as textile fibers, wood pulp, polymers, etc. Therefore, Cohen teaches a different product than the claimed invention.

Moreover, nowhere does Cohen teach or suggest a woven/non-woven fabric "*wherein said plurality of waste threads comprises fibers in a range of length between about 8 mm to about 18 mm*", as recited in exemplary dependent claim 15 and dependent claim 18.

10/626,710  
DOCKET NO.001US1

12

In the Examiners' Response to Arguments the Examiner states that "the teaching of "staple" fiber necessitates a substantial uniform length as the length of staple cotton fibers is well known and as a specified value" (see Office Action at page 9). The Examiner, however, does not provide any support for this allegation.

Therefore, if the Examiner wishes to maintain this rejection, Applicants respectfully request the Examiner to provide a prior art reference that specifically teaches each and every feature of the claimed invention and that supports the Examiner's allegation that "the length of staple cotton fibers is well known and as a specified value".

Therefore, Applicants submit that there are features of the claimed invention that are neither taught nor suggested by the claimed invention. Therefore, the Examiner is respectfully requested to reconsider and withdraw this rejection.

### C. The Evans Reference

The Examiner alleges that Evans teaches the claimed invention of claims 14-17, 21-25 and 27. Applicants submit, however, that there are features of the claimed invention, which are neither taught nor suggested by Evans.

That is, Evans does not teach or suggest "*wherein said plurality of waste threads comprises fibers having a substantially uniform length*", as recited by exemplary claim 14.

The Examiner attempts to rely on the Abstract and column 3, lines 20-37 of Evans to support his allegations. The Examiner, however, is clearly incorrect.

That is, nowhere in these passages (nor anywhere else for that matter) does Evans teach or suggest a woven/non-woven fabric including a plurality of waste fibers wherein the plurality of waste fibers include fibers having a substantially uniform length. Indeed, Evans



10/626,710  
DOCKET NO.001US1

13

merely discloses that the staple-length textile fibers may have a length from about 6mm to 15cm (see Evans at column 3, lines 20-37).

Applicants point out that when the prior art discloses a range that overlaps a claimed range in order to anticipate the claims, “the claimed subject matter must be disclosed in the reference with sufficient specificity to constitute an anticipation under the statute” (see M.P.E.P. § 2131.03).

Applicants have discovered the significance of the length of the plurality of waste fibers. As pointed out in the Application, if there is a significant difference in the length of the fibers, then the fibers will be laid on the belt in an irregular way. If the fibers are laid on the belt in an irregular way they will produce an uneven web (see Application at page 9, lines 19-21). Applicants believe that the claimed feature recited in claim 1 is an important contribution to the art for achieving the desired results of the claimed invention.

Applicants point out that MPEP 2144.05 states that “[t]he law is replete with cases in which the difference between the claimed invention and the prior art is some range or other variable within the claims”. That is, a specific range or other variable in a claim may provide patentable weight to a claim if the applicant can show that the particular range is important (see MPEP 2144.05). In order to anticipate this claimed range, the specific limitation must be disclosed in the reference with “sufficient specificity to constitute an anticipation under the statute” (see MPEP 2131.03). As stated above, Evans does not even mention a relationship between the length of the fibers and an evenness of the resulting web. That is, Evans clearly fails to recognize the significance of this parameter.

Therefore, the specific feature recited in exemplary claim 1 clearly shows a technical effect and is not arbitrarily selected to solve the problems presented in the Application.

10/626,710  
DOCKET NO.001US1

14

Furthermore, Applicants submit that the MPEP provides that “[a] particular parameter must first be recognized as a result-effective variable, i.e., **a variable which achieves a recognized result**, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation” (MPEP at 2144.05) (emphasis added). Here, the only result that these references suggest as being affected by fiber length is resistance to entanglement. Evans lists fiber length as one of a plurality of fiber characteristics they can effect the fibers’ resistance to entanglement. Evans teaches that smaller fibers are more readily entangled than longer fibers (see Evans at column 3, lines 19-32). However, this is unrelated to optimizing a fiber length for providing the desired results of the claimed invention.

That is, nowhere does Evans teach or suggest that the length of the fiber may have any effect on the evenness of the web. Certainly, Evans does not teach or suggest that a significant difference in the length of the fibers will result in an uneven web. Therefore, it is clearly unreasonable to suggest that Evans teaches or suggests that the length of the fibers in a plurality of waste fibers of a woven/non-woven fabric is merely a result effective variable.

Furthermore, Evans merely teaches a nonwoven fabric prepared by assembling layers of staple-length textile fibers together with reinforcing strands (see Evans at column 1, lines 18-21) relatively difficult to entangle. Evans also states that “all types of fibers are suitable for use as the staple-length fibers and that they may have a length from 6 mm to 15 cm (see Evans at column 3, lines 33-55). In contrast, the length of the fibers according to an exemplary aspect of the claimed invention may be from 8 mm to 18 mm. Therefore, Evans teaches a different product than the claimed invention.

10/626,710  
DOCKET NO.001US1

15

Therefore, Evans does not teach the claimed range with "sufficient specificity" to constitute an anticipation of the claims.

Moreover, nowhere does Evans teach or suggest a woven/non-woven fabric "*wherein said plurality of waste threads comprises fibers in a range of length between about 8 mm to about 18 mm*", as recited in exemplary dependent claim 15 and newly added exemplary dependent claim 18.

In the Examiners' Response to Arguments the Examiner states that "the teaching of "staple" fiber necessitates a substantial uniform length as the length of staple cotton fibers is well known and as a specified value" (see Office Action at page 9). The Examiner, however, does not provide any support for this allegation.

Therefore, if the Examiner wishes to maintain this rejection, Applicants respectfully request the Examiner to provide a prior art reference that specifically teaches each and every feature of the claimed invention and that supports the Examiner's allegation that "the length of staple cotton fibers is well known and as a specified value".

Therefore, Applicants submit that there are features of the claimed invention that are neither taught nor suggested by the claimed invention. Therefore, the Examiner is respectfully requested to reconsider and withdraw this rejection.

#### **D. The Meitner Reference**

The Examiner alleges that Meitner would have been combined with Quantrille to teach the claimed invention of claim 28. Furthermore, the Examiner alleges that Meitner would have been combined with Cohen to teach the claimed invention of claim 28. Additionally, the Examiner alleges that Meitner would have been combined with Evans to

10/626,710  
DOCKET NO.001US1

16

teach the claimed invention of claim 28. Applicants respectfully submit, however, that, even if combined, the alleged combination of references would not teach or suggest each and every feature of the claimed invention.

That is, neither Quantrille, Cohen, Evans nor Meitner, nor any combination thereof, teaches or suggests “*wherein said plurality of waste threads comprises fibers having a substantially uniform length*”, as recited by exemplary claim 14.

Applicants have provided traversal arguments above, which clearly explain that this feature is not taught or suggested by Quantrille, Cohen nor Evans. The above traversal arguments are incorporated herein.

Furthermore, Applicants submit that Meitner does not make up the deficiencies of Quantrille, Cohen nor Evans.

Indeed, the Examiner attempts to rely on the Abstract and Table 1 of Meitner to support his allegations. The Examiner, however, is clearly incorrect.

That is, nowhere in the Abstract nor Table 1 (nor anywhere else for that matter) does Meitner teach or suggest woven/non-woven fabric including a plurality of waste fibers wherein the plurality of waste fibers include fibers having a substantially uniform length. Indeed, the Examiner does not even allege that Meitner teaches or suggests this feature. The Examiner merely relies on Meitner as teaching staple fibers having a thickness in range of 1 mm to 10 mm.

Thus, Meitner fails to make up the deficiencies of Quantrille, Cohen and Evans.

Moreover, Meitner is merely directed to an improved non-woven wiper including a matrix of fibers including thermoplastic micro-fibers and a mixture of synthetic staple fibers

10/626,710  
DOCKET NO.001US1

17

and cotton. Therefore, similar to Quantrille, Cohen and Evans, Meitner is directed to a completely different product than the claimed invention.

Therefore, Applicants respectfully submit that, even if combined, the alleged combination of references does not teach or suggest each and every feature of the claimed invention. Therefore, the Examiner is respectfully requested to reconsider and withdraw this rejection.

#### V. FORMAL MATTERS AND CONCLUSION

Applicants respectfully submit that the claims have been amended in accordance with the Examiner's objections.

Regarding the Examiner's objection of claims 14-17, Applicants respectfully submit that the term "woven/non-woven" is clearly defined in the specification. That is, as previously explained in the Amendment filed May 24, 2005, "[i]t is noted that, for purposes of the present application, a "woven/non-woven fabric" is called "woven" because it looks like fabric and "non-woven" because in the production process a loom is not employed" (see Application at page 2, lines 7-9). Applicants remind the Examiner that Applicants may be their own lexicographer, as long as the claim terms are clearly defined in the Application. The term woven/non-woven is, as indicated above, clearly defined in the Application. The term "woven/non-woven" does not mean woven or non-woven as interpreted by the Examiner.

If the Examiner wishes to again maintain this objection, Applicants respectfully request the Examiner to respond to Applicants traversal arguments provided herein.

10/626,710  
DOCKET NO.001US1

18

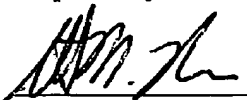
In view of the foregoing amendments and remarks, Applicants respectfully submit that claims 14-28, all the claims presently pending in the Application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the Application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date: October 17, 2005

  
\_\_\_\_\_  
Scott M. Tulino, Esq.  
Registration No. 48,317

Sean M. McGinn, Esq.  
Registration No. 34,386

**MCGINN INTELLECTUAL PROPERTY  
LAW GROUP, PLLC**  
8321 Old Courthouse Rd., Suite 200  
Vienna, Virginia 22182  
(703) 761-4100  
Customer No. 21254

10/626,710  
DOCKET NO.001US1

19

**FACSIMILE TRANSMISSION**

I hereby certify that I am filing this paper via facsimile, to Group Art Unit 1771, at  
(571) 273-8300, on October 17, 2005.

Respectfully Submitted,

Date: October 17, 2005



\_\_\_\_\_  
Scott M. Tulino, Esq.  
Reg. No. 48,317

Sean M. McGinn, Esq.  
Reg. No. 34,386